

LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 114**  
FINAL READING

Introduced by Quandahl, 31; Aguilar, 35; Redfield, 12; Brown, 6;  
Bruning, 3; Burling, 33; Cudaback, 36;  
Cunningham, 18; Erdman, 47; Hilgert, 7; Hudkins, 21;  
Kremer, 34; Kruse, 13; Dw. Pedersen, 39; Schimek, 27

Read first time January 4, 2001

Committee: General Affairs

A BILL

1 FOR AN ACT relating to the Nebraska Liquor Control Act; to amend  
2 sections 53-168.06, 53-180.02, 53-180.04, and 53-180.05,  
3 Reissue Revised Statutes of Nebraska, and sections 53-101  
4 and 53-103, Revised Statutes Supplement, 2000; to define  
5 a term; to change provisions relating to the sale,  
6 possession, and consumption of alcoholic liquor; to  
7 change provisions relating to enforcement of violations  
8 of provisions on sales to minors; to authorize minors to  
9 assist law enforcement officers as prescribed; to  
10 harmonize provisions; and to repeal the original  
11 sections.  
12 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 53-101, Revised Statutes Supplement,  
2   2000, is amended to read:

3           53-101. Sections 53-101 to 53-1,121 and section 7 of  
4 this act shall be known and may be cited as the Nebraska Liquor  
5 Control Act.

6           Sec. 2. Section 53-103, Revised Statutes Supplement,  
7   2000, is amended to read:

8           53-103. For purposes of the Nebraska Liquor Control Act,  
9   unless the context otherwise requires:

10           (1) Alcohol means the product of distillation of any  
11   fermented liquid, whether rectified or diluted, whatever the origin  
12   thereof, and includes synthetic ethyl alcohol. Alcohol does not  
13   include denatured alcohol or wood alcohol;

14           (2) Spirits means any beverage which contains alcohol  
15   obtained by distillation, mixed with water or other substance in  
16   solution, and includes brandy, rum, whiskey, gin, or other  
17   spirituous liquors and such liquors when rectified, blended, or  
18   otherwise mixed with alcohol or other substances;

19           (3) Wine means any alcoholic beverage obtained by the  
20   fermentation of the natural contents of fruits or vegetables,  
21   containing sugar, including such beverages when fortified by the  
22   addition of alcohol or spirits;

23           (4) Beer means a beverage obtained by alcoholic  
24   fermentation of an infusion or concoction of barley or other grain,  
25   malt, and hops in water and includes, but is not limited to, beer,  
26   ale, stout, lager beer, porter, and near beer;

27           (5) Alcoholic liquor includes alcohol, spirits, wine,  
28   beer, and any liquid or solid, patented or not, containing alcohol,

1 spirits, wine, or beer and capable of being consumed as a beverage  
2 by a human being. Alcoholic liquor also includes confections or  
3 candy with alcohol content of more than one-half of one percent  
4 alcohol. The act does not apply to (a) alcohol used in the  
5 manufacture of denatured alcohol produced in accordance with acts  
6 of Congress and regulations adopted and promulgated pursuant to  
7 such acts, (b) flavoring extracts, syrups, medicinal, mechanical,  
8 scientific, culinary, or toilet preparations, or food products  
9 unfit for beverage purposes, but the act applies to alcoholic  
10 liquor used in the manufacture, preparation, or compounding of such  
11 products or confections or candy that contains more than one-half  
12 of one percent alcohol, or (c) wine intended for use and used by  
13 any church or religious organization for sacramental purposes;

14 (6) Near beer means beer containing less than one-half of  
15 one percent of alcohol by volume;

16 (7) Original package means any bottle, flask, jug, can,  
17 cask, barrel, keg, hogshead, or other receptacle or container used,  
18 corked or capped, sealed, and labeled by the manufacturer of  
19 alcoholic liquor to contain and to convey any alcoholic liquor;

20 (8) Manufacturer means every brewer, fermenter,  
21 distiller, rectifier, winemaker, blender, processor, bottler, or  
22 person who fills or refills an original package and others engaged  
23 in brewing, fermenting, distilling, rectifying, or bottling  
24 alcoholic liquor, including a wholly owned affiliate or duly  
25 authorized agent for a manufacturer;

26 (9) Nonbeverage user means every manufacturer of any of  
27 the products set forth and described in subsection (4) of section  
28 53-160, when such product contains alcoholic liquor, and all

1 laboratories, hospitals, and sanatoria using alcoholic liquor for  
2 nonbeverage purposes;

3 (10) Manufacture means to distill, rectify, ferment,  
4 brew, make, mix, concoct, process, blend, bottle, or fill an  
5 original package with any alcoholic liquor and includes blending  
6 but does not include the mixing or other preparation of drinks for  
7 serving by those persons authorized and permitted in the act to  
8 serve drinks for consumption on the premises where sold;

9 (11) Wholesaler means a person importing or causing to be  
10 imported into the state or purchasing or causing to be purchased  
11 within the state alcoholic liquor for sale or resale to retailers  
12 licensed under the act, whether the business of the wholesaler is  
13 conducted under the terms of a franchise or any other form of an  
14 agreement with a manufacturer or manufacturers, or who has caused  
15 alcoholic liquor to be imported into the state or purchased in the  
16 state from a manufacturer or manufacturers and was licensed to  
17 conduct such a business by the commission on May 1, 1970, or has  
18 been so licensed since that date. Wholesaler does not include any  
19 retailer licensed to sell alcoholic liquor for consumption off the  
20 premises who sells alcoholic liquor other than beer or wine to  
21 another retailer pursuant to section 53-175, except that any such  
22 retailer shall obtain the required federal wholesaler's basic  
23 permit and federal wholesale liquor dealer's special tax stamp.  
24 Wholesaler includes a distributor, distributorship, and jobber;

25 (12) Person means any natural person, trustee,  
26 corporation, partnership, or limited liability company;

27 (13) Retailer means a person who sells or offers for sale  
28 alcoholic liquor for use or consumption and not for resale in any

1 form except as provided in section 53-175;

2 (14) Sell at retail and sale at retail means sale for use  
3 or consumption and not for resale in any form except as provided in  
4 section 53-175;

5 (15) Commission means the Nebraska Liquor Control  
6 Commission;

7 (16) Sale means any transfer, exchange, or barter in any  
8 manner or by any means for a consideration and includes any sale  
9 made by any person, whether principal, proprietor, agent, servant,  
10 or employee;

11 (17) To sell means to solicit or receive an order for, to  
12 keep or expose for sale, or to keep with intent to sell;

13 (18) Restaurant means any public place (a) which is kept,  
14 used, maintained, advertised, and held out to the public as a place  
15 where meals are served and where meals are actually and regularly  
16 served, (b) which has no sleeping accommodations, and (c) which has  
17 adequate and sanitary kitchen and dining room equipment and  
18 capacity and a sufficient number and kind of employees to prepare,  
19 cook, and serve suitable food for its guests;

20 (19) Club means a corporation (a) which is organized  
21 under the laws of this state, not for pecuniary profit, solely for  
22 the promotion of some common object other than the sale or  
23 consumption of alcoholic liquor, (b) which is kept, used, and  
24 maintained by its members through the payment of annual dues, (c)  
25 which owns, hires, or leases a building or space in a building  
26 suitable and adequate for the reasonable and comfortable use and  
27 accommodation of its members and their guests, and (d) which has  
28 suitable and adequate kitchen and dining room space and equipment

1 and a sufficient number of servants and employees for cooking,  
2 preparing, and serving food and meals for its members and their  
3 guests. The affairs and management of such club shall be conducted  
4 by a board of directors, executive committee, or similar body  
5 chosen by the members at their annual meeting, and no member,  
6 officer, agent, or employee of the club shall be paid or shall  
7 directly or indirectly receive, in the form of salary or other  
8 compensation, any profits from the distribution or sale of  
9 alcoholic liquor to the club or the members of the club or its  
10 guests introduced by members other than any salary fixed and voted  
11 at any annual meeting by the members or by the governing body of  
12 the club out of the general revenue of the club;

13 (20) Hotel means any building or other structure (a)  
14 which is kept, used, maintained, advertised, and held out to the  
15 public to be a place where food is actually served and consumed and  
16 sleeping accommodations are offered for adequate pay to travelers  
17 and guests, whether transient, permanent, or residential, (b) in  
18 which twenty-five or more rooms are used for the sleeping  
19 accommodations of such guests, and (c) which has one or more public  
20 dining rooms where meals are served to such guests, such sleeping  
21 accommodations and dining rooms being conducted in the same  
22 buildings in connection therewith and such building or buildings or  
23 structure or structures being provided with adequate and sanitary  
24 kitchen and dining room equipment and capacity;

25 (21) Nonprofit corporation means any corporation  
26 organized under the laws of this state, not for profit, which has  
27 been exempted from the payment of federal income taxes;

28 (22) Bottle club means an operation, whether formally

1 organized as a club having a regular membership list, dues,  
2 officers, and meetings or not, keeping and maintaining premises  
3 where persons who have made their own purchases of alcoholic liquor  
4 congregate for the express purpose of consuming such alcoholic  
5 liquor upon the payment of a fee or other consideration, including  
6 among other services the sale of food, ice, mixes, or other fluids  
7 for alcoholic drinks and the maintenance of space for the storage  
8 of alcoholic liquor belonging to such persons and facilities for  
9 the dispensing of such liquor through a locker system, card system,  
10 or pool system, which shall not be deemed or considered a sale of  
11 alcoholic liquor. Such operation may be conducted by a club, an  
12 individual, a partnership, a limited liability company, or a  
13 corporation. An accurate and current membership list shall be  
14 maintained upon the premises which contains the names and  
15 residences of its members. This section does not prohibit the sale  
16 of alcoholic liquor for consumption on the premises to any person  
17 who is not a current member of such bottle club;

18 (23) Minor means any person, male or female, under  
19 twenty-one years of age, regardless of marital status;

20 (24) Brand means alcoholic liquor identified as the  
21 product of a specific manufacturer;

22 (25) Franchise or agreement, with reference to the  
23 relationship between a manufacturer and wholesaler, includes one or  
24 more of the following: (a) A commercial relationship of a definite  
25 duration or continuing indefinite duration which is not required to  
26 be in writing; (b) a relationship by which the wholesaler is  
27 granted the right to offer and sell the manufacturer's brands by  
28 the manufacturer; (c) a relationship by which the franchise, as an

1 independent business, constitutes a component of the manufacturer's  
2 distribution system; (d) a relationship by which the operation of  
3 the wholesaler's business is substantially associated with the  
4 manufacturer's brand, advertising, or other commercial symbol  
5 designating the manufacturer; and (e) a relationship by which the  
6 operation of the wholesaler's business is substantially reliant on  
7 the manufacturer for the continued supply of beer;

8 (26) Territory or sales territory means the wholesaler's  
9 area of sales responsibility for the brand or brands of the  
10 manufacturer;

11 (27) Suspend means to cause a temporary interruption of  
12 all rights and privileges of a license;

13 (28) Cancel means to discontinue all rights and  
14 privileges of a license;

15 (29) Revoke means to permanently void and recall all  
16 rights and privileges of a license;

17 (30) Generic label means a label which is not protected  
18 by a registered trademark, either in whole or in part, or to which  
19 no person has acquired a right pursuant to state or federal  
20 statutory or common law;

21 (31) Private label means a label which the purchasing  
22 wholesaler, retailer, or bottle club licensee has protected, in  
23 whole or in part, by a trademark registration or which the  
24 purchasing wholesaler, retailer, or bottle club licensee has  
25 otherwise protected pursuant to state or federal statutory or  
26 common law;

27 (32) Farm winery means any enterprise which produces and  
28 sells wines produced from grapes, other fruit, or other suitable



1 agricultural products of which at least seventy-five percent is  
2 grown in this state;

3 (33) Campus, as it pertains to the southern boundary of  
4 the main campus of the University of Nebraska-Lincoln, means the  
5 south right-of-way line of R Street and abandoned R Street from  
6 10th to 17th streets;

7 (34) Brewpub means any restaurant or hotel which produces  
8 on its premises a maximum of ten thousand barrels of beer per year;

9 (35) Manager means a person appointed by a corporation to  
10 oversee the daily operation of the business licensed in Nebraska.  
11 A manager shall meet all the requirements of the act as though he  
12 or she were the applicant, except for residency and citizenship;

13 (36) Shipping license means a license granted pursuant to  
14 section 53-123.15;

15 (37) Sampling means consumption on the premises of a  
16 retail licensee of not more than five samples of one fluid ounce or  
17 less of alcoholic liquor by the same person in a twenty-four-hour  
18 period;

19 (38) Microbrewery means any small brewery producing a  
20 maximum of ten thousand barrels of beer per year;

21 (39) Craft brewery means a brewpub or a microbrewery; ~~and~~

22 (40) Local governing body means the city council or  
23 village board of trustees of a city or village within which the  
24 licensed premises are located or, if such premises are not within  
25 the corporate limits of a city or village, the county board of the  
26 county within which the licensed premises are located; and

27 (41) Consume means knowingly and intentionally drinking  
28 or otherwise ingesting alcoholic liquor.

1           Sec. 3. Section 53-168.06, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           53-168.06. No person shall manufacture, bottle, blend,  
4 sell, barter, transport, deliver, furnish, or possess any alcoholic  
5 liquor for beverage purposes except as specifically provided in the  
6 Nebraska Liquor Control Act. Nothing in the act shall prevent (1)  
7 the possession of alcoholic liquor legally obtained as provided in  
8 the act for the personal use of the possessor and his or her family  
9 and guests; (2) the making of wine, cider, or other alcoholic  
10 liquor by a person from fruits, vegetables, or grains, or the  
11 product thereof, by simple fermentation and without distillation,  
12 if made solely for the use of the maker and his or her family and  
13 guests; (3) any duly licensed practicing physician or dentist from  
14 possessing or using alcoholic liquor in the strict practice of his  
15 or her profession, any hospital or other institution caring for the  
16 sick and diseased persons from possessing and using alcoholic  
17 liquor for the treatment of bona fide patients of such hospital or  
18 other institution, or any drug store employing a licensed  
19 pharmacist from possessing or using alcoholic liquor in the  
20 compounding of prescriptions of licensed physicians; (4) the  
21 possession and dispensation of ~~wine~~ alcoholic liquor by an  
22 authorized representative of any ~~church~~ religion on the premises of  
23 a place of worship, for the purpose of conducting any bona fide  
24 ~~rite or religious ceremony conducted by such church rite, ritual,~~  
25 or ceremony; (5) persons who are sixteen years old or older from  
26 carrying alcoholic liquor from licensed establishments when they  
27 are accompanied by a person not a minor; (6) persons who are  
28 sixteen years old or older from handling alcoholic liquor

1 containers and alcoholic liquor in the course of their employment;  
2 (7) persons who are sixteen years old or older from removing and  
3 disposing of alcoholic liquor containers for the convenience of the  
4 employer and customers in the course of their employment; or (8)  
5 persons who are nineteen years old or older from serving or selling  
6 alcoholic liquor in the course of their employment.

7           Sec. 4. Section 53-180.02, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           53-180.02. Except as provided in section 53-168.06, no  
10 minor may sell, ~~or~~ dispense, consume, or have in his or her  
11 possession or physical control any alcoholic liquor in any tavern  
12 or in any other place, including public streets, alleys, roads, or  
13 highways, upon property owned by the State of Nebraska or any  
14 subdivision thereof, or inside any vehicle while in or on any other  
15 place, including, but not limited to, the public streets, alleys,  
16 roads, or highways, or upon property owned by the State of Nebraska  
17 or any subdivision thereof, except that a minor may consume,  
18 possess, or have physical control of alcoholic liquor in his or her  
19 permanent place of residence or on the premises of a place of  
20 religious worship on which premises alcoholic liquor is consumed as  
21 a part of a religious rite, ritual, or ceremony.

22           The governing bodies of counties, cities, and villages  
23 shall have the power to, and may by applicable resolution or  
24 ordinance, regulate, suppress, and control the ~~transporting,~~  
25 ~~knowingly possessing,~~ ~~or having under his or her control,~~  
26 transportation, consumption, or knowing possession of or having  
27 under his or her control beer or other alcoholic liquor in or  
28 transported by any motor vehicle, by ~~persons~~ any person under

1 twenty-one years of age, and may provide penalties for violations  
2 of such resolution or ordinance.

3 Sec. 5. Section 53-180.04, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 53-180.04. Every licensee of a place where alcoholic  
6 liquor is sold at retail shall display at all times in a prominent  
7 place a printed card with a minimum height of twenty inches and a  
8 width of fourteen inches, with each letter to be a minimum of  
9 one-fourth inch in height, which shall read as follows:

10 WARNING TO PERSONS UNDER 21

11 YOU ARE SUBJECT TO

12 NOTIFICATION OF PARENTS OR GUARDIAN

13 AND

14 YOU ARE SUBJECT TO A PENALTY OF UP TO

15 ~~YOU ARE SUBJECT TO A PENALTY UP TO~~

16 \$500 FINE

17 3 MONTHS IN JAIL

18 OR BOTH

19 ~~IF YOU ARE UNDER 21 AND YOU PURCHASE~~

20 ~~OR ATTEMPT TO PURCHASE~~

21 IF YOU ARE UNDER 21 AND YOU CONSUME,

22 PURCHASE, ATTEMPT TO PURCHASE,

23 OR HAVE IN YOUR POSSESSION

24 ALCOHOLIC LIQUOR IN THIS ESTABLISHMENT

25 AND

26 WARNING TO ADULTS

27 ~~YOU ARE SUBJECT TO A PENALTY UP TO~~

28 YOU ARE SUBJECT TO A PENALTY OF UP TO

1                                   \$1000 FINE  
2                                   1 YEAR IN JAIL  
3                                   OR BOTH  
4                   IF YOU ARE 21 OR OVER AND YOU PURCHASE  
5                                   ALCOHOLIC LIQUOR  
6                                   FOR A PERSON UNDER 21  
7                                   AND  
8                   WARNING TO PURCHASERS OF BEER KEGS  
9                   PROPER IDENTIFICATION AND PURCHASER'S SIGNATURE  
10                                  ARE REQUIRED

11                                  LAWS OF THE STATE OF NEBRASKA

12                   Sec. 6.   Section 53-180.05, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14                   53-180.05. (1) Any person violating section 53-180 shall  
15 be guilty of a Class I misdemeanor. Any person violating any of  
16 the provisions of sections 53-180.01 to 53-180.03 shall be guilty  
17 of a Class III misdemeanor. Any person violating section  
18 ~~53-180.02, in lieu of the other penalties set out in this~~  
19 ~~subsection, may be sentenced to work on public streets, in parks,~~  
20 ~~or on other public property for a period not exceeding ten working~~  
21 ~~days. Such work shall be under the supervision of the county~~  
22 ~~sheriff. Upon the written certification by the county sheriff of~~  
23 ~~the performance of such work, the sentence shall be satisfied.~~

24                   (2) Any person who knowingly manufactures, creates, or  
25 alters any form of identification for the purpose of sale or  
26 delivery of such form of identification to a person under the age  
27 of twenty-one years shall be guilty of a Class I misdemeanor. For  
28 purposes of this subsection, form of identification ~~shall mean~~

1 means any card, paper, or legal document that may be used to  
2 establish the age of the person named thereon for the purpose of  
3 purchasing alcoholic liquor.

4 (3) When a minor is arrested for a violation of sections  
5 53-180 to 53-180.02 or subsection (2) of this section, the law  
6 enforcement agency employing the arresting peace officer shall make  
7 a reasonable attempt to notify such minor's parent or guardian of  
8 the arrest.

9 Sec. 7. In order to further the public policy of  
10 detering minors from illegally obtaining or consuming alcoholic  
11 liquor, persons under twenty-one years of age may be authorized to  
12 assist duly authorized law enforcement officers to determine  
13 compliance with sections 53-180 and 53-180.02. Such compliance  
14 checks shall be conducted pursuant to guidelines adopted and  
15 promulgated by the Nebraska State Patrol with input from the  
16 commission. Unless a person is an emancipated minor at least  
17 eighteen years of age, no person under twenty-one years of age  
18 shall be authorized to participate or assist law enforcement  
19 officers in such compliance checks without the written consent of  
20 his or her parents or legal guardian.

21 Sec. 8. Original sections 53-168.06, 53-180.02,  
22 53-180.04, and 53-180.05, Reissue Revised Statutes of Nebraska, and  
23 sections 53-101 and 53-103, Revised Statutes Supplement, 2000, are  
24 repealed.